

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff(s),**

**CASE NUMBER: 05-80025**

**HONORABLE VICTORIA A. ROBERTS**

**v.**

**D-1 TIMOTHY DENNIS O'REILLY,**

**Defendant(s).**

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**ORDER**

This matter is before the Court on the Government's "Motion to Test Defendant for Purposes of Rebutting his Rule 12.2 Mental Health Evidence and for Expedited Consideration." (Doc. #509). The Government seeks permission to conduct an Electroencephalogram (EEG) on Timothy O'Reilly and any related examinations deemed necessary by a neurologist to properly assess whether O'Reilly has any mental or developmental disability or impairment.

On February 19, 2010, the Court entered an Order that says "Government experts can only subject O'Reilly to examination or testing that was performed by defense experts."

O'Reilly's 12.2 Notice dated March 8, 2010 says: "The defendant will call experts who performed neurological examinations (EEG) of the defendant when he was approximately 8 and 9 years old. They did no clinical interviews."

O'Reilly's Supplemental 12.2 Notice dated May 10, 2010 says: "No defense witness providing mental health evidence has interviewed Mr. O'Reilly in preparation for

his or her testimony.”

Finally, O’Reilly’s Belated Compliance with the Court’s Order of May 10, 2010

says:

The defendant will call a neurologist who *reviewed* EEG charts of Mr. O’Reilly. The EEGs were performed by the staff of Methodist Hospital of Southern California on June 17 and October 6, 1981. The defendant was 8 or 9 at the time of these examinations. This neurologist did not meet with Mr. O’Reilly nor did he or anyone else perform any other neurological examinations of Mr. O’Reilly.

(Emphasis in original).

Because the defense experts did not subject O’Reilly to any examination or testing, the Government’s motion is **DENIED**.

**IT IS ORDERED.**

S/Victoria A. Roberts

Victoria A. Roberts

United States District Judge

Dated: June 3, 2010

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on June 3, 2010.

s/Carol A. Pinegar

Deputy Clerk